

**JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY
COURT NO. 17**

CIVIL ACTION NO: JP17-20-003136

CALVIN MUSSER III VS NATASHA EVANS

ORDER ON TRIAL DE NOVO

The Court has entered a judgment or order in the following form:

HISTORY/FACTS

This case was originally filed as a Summary Possession action by Plaintiff, Calvin L. Musser against Defendant, Natasha Evans regarding the rental property located at 11262 Scarborough Lane, Unit A Laurel, Delaware. The case proceeded to trial on October 12, 2020 where the Court, upon motion of the Defendant, dismissed the case due to Plaintiff's failure to present the notice sent to Defendant by Plaintiff pursuant to 25 Del. Code §5502 Landlord Remedies for Failure to Pay Rent.

Plaintiff appealed, and the Court scheduled the matter for a Trial de Novo on November 06, 2020. During presentation of its case, Plaintiff submitted a letter dated June 9, 2020 which was sent to Defendant as notice of Plaintiff's intention to terminate the lease agreement. Although other rules violations were mentioned, Plaintiff indicated to the Court that he only wished to move forward with the issue of nonpayment of rent. Upon Plaintiff's completion of presenting its case, Defendant made a motion to dismiss pursuant to Rule 41 (b) indicating that the notice to Defendant did not conform with 25 Del. Code §5502 which states in pertinent part:

(a) A landlord or the landlord's agent may, any time after rent is due, including the time period between the date the rent is due and the date under this Code when late fees may be imposed, demand payment thereof and notify the tenant in writing that unless payment is made within a time mentioned in such notice, to be not less than 5 days after the date notice was given or sent, the rental agreement shall be terminated. If the tenant remains in default, the landlord may thereafter bring an action for summary possession of the dwelling unit or any other proper proceeding, action or suit for possession.

Upon review of the letter, the court determined it was indeed faulty, and subsequently GRANTED the motion to dismiss. Accordingly, this matter is dismissed without prejudice.

IT IS SO ORDERED 12th day of November, 2020

/s/SCOTT WILLEY (SEAL)
Justice of the Peace
For the Three Judge Panel

Information on post-judgment procedures for default judgment on Trial De Novo is found in the attached sheet entitled Justice of the Peace Courts Civil Post-Judgment Procedures Three Judge Panel (J.P. Civ. Form No. 14A3J).

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